

Libby Community Advisory Group Meeting Summary February 12, 2004

Introductions

Gerald Mueller and members of the Libby Community Advisory Group (CAG) introduced themselves. A list of the members and visitors in attendance is attached below as Appendix 1.

Agenda

The CAG agreed to the following agenda for this meeting:

- EPA Report
- TAG Report
- Attorney General Letter
- ARD Health Conference
- CARD Clinic Report
- Public Comment

EPA Report

Jim Christiansen and Wendy Thomi reported on behalf of EPA on the following subjects.

Cleanup Worker Wages - Because of funding reductions for this year previously discussed with the CAG, and the need to make the cleanup work budget go as far as possible, Jim Christiansen asked CDM Federal and the U.S. Dept of Transportation, (DOT) to review wage levels of workers conducting the cleanups in Libby. DOT determined that existing wages set at about \$24 per hour were appropriate for heavy construction type work, but that the scope of the work had changed and the wages should change to reflect a level appropriate for residential building construction. The wages were reduced to approximately \$14 per hour, which is lower than Mr. Christiansen expected. Additionally, Mr. Christiansen had assumed that any change in wages would take place at the start of the new remediation contract expected in about April; instead, they were implemented in the next task order under the existing contract which affected SaLUT/Marcor workers. Mr. Christiansen stated that the wage reduction was a mistake for which he takes responsibility. The reduction was too much, and was made without first notifying the cleanup workers. Mr. Christiansen said that the workers were upset, and rightly so. EPA has since requested the federal agency in charge of wage setting, the US Department of Labor (DOL), to review the wage levels. DOL did not find a wage category appropriate for the Libby cleanup workers and asked the employer (the contractor) to propose a wage level. EPA has suggested that using the state prevailing wage for asbestos cleanup which is \$19.55 per hour may be more appropriate. If proposed, DOL will rule on the proposal within thirty days. EPA plans to make the final agreed upon wage retroactive to the pay period in which the \$24 to \$14 reduction occurred. Mr. Christiansen met with the remediation workers on Feb. 11th to explain the situation. While the workers are understandably unhappy, the cleanup work is continuing.

CAG Member Question - Which agency did you say has jurisdiction over the wage setting, the state or federal department of labor?

Answer - The federal DOL.

CAG Member Question - What happens if the workers decide to unionize?

Answer - The workers have the right to unionize. EPA neither encourages or discourages such activity. Whether workers chose to do so is an issue with the contractor for which they work.

CAG Member Question - Have wages dropped and workers been dissatisfied on other Superfund projects?

Answer - Wages do shift in Superfund projects as the work shifts from EPA to responsible parties or state agencies.

Audience Member Question - What was the total payroll last year in Libby?

Answer - Total expenditures last year in Libby were \$9 million. I don't know off hand how much of that amount was wages.

Audience Member Comment - The wage reduction is a big hit for this community.

Audience Member Question - Who made the decision to lower the wages?

Answer - I (Jim Christiansen) asked that the wage levels be reviewed. However, EPA cannot set wage rates. The DOL sets wage rates for federal work. In this case, based on Mr. Christiansen's direction, SaLUT/Marcor proposed the wage level to the US Department of Transportation, and they worked out the proposed level.

Audience Member Question - What cost savings resulted from the wage reduction?

Answer - The \$24 to \$14 reduction resulted in about a 25% reduction per household cleanup.

CAG Member Question - If a contractor runs into something unforeseen, is the contract changed?

Answer - In some cases. In the last task order, the contract was changed from cost plus to fixed cost.

CAG Member Question - Is ER finished working in Libby?

Answer - EPA contracted directly with ER during the emergency cleanup. The capacity of this contract has been exhausted. ER is bidding on the next contract.

Audience Member Question - Can a contractor make more money by lowering the quality of the cleanup? Do I have to be increasingly vigilant in watching what they do?

Answer - EPA continues to exercise oversight to assure cleanup quality.

CAG Member Question - The budget for this year is for house cleanup?

Answer - Yes, but the cost of residential cleanups also includes design, sampling, laboratory analysis, and oversight in addition to actual cleanup costs. Other items such as the animal studies of asbestos toxicity have been postponed so that we can maintain a focus on cleanups.

Audience Member Question - If something like the river park cleanup happens, money would have to be taken from cleanups?

Answer - Yes, emergency actions would have to come out of the residential cleanup funds.

CAG Member Question - Some cleanups are relatively straight forward, and some are complex. Have you established priorities for the order in which residential cleanups will occur?

Answer - The choice is in flux. We weigh several factors for deciding the cleanup order. Seasonality is an issue because we do not work outside during the winter. My predecessor made commitments that I try to honor. We also deliberately picked both easy and complex cleanups initially to learn. We are trying to move to a geographical basis so that we can do all the residences in one area rather than hopping around the town because this approach saves money.

CAG Member Question - Given your limited budget, would it make sense to avoid doing more than one expensive cleanup now so you keep the work moving?

Answer - We do need to demonstrate progress in the cleanup so not getting bogged down in a few expensive cleanups now is probably a good idea.

CAG Member Question - You now have a work plan that guides the cleanup activity. Did you experience cost overruns last year?

Answer - When the residential cleanups began we were in the learning phase and didn't have a work plan. Some of the initial cleanups were very expensive. The contractors were working on a time and materials basis. The work now has shifted to fixed price contract. Unforeseen circumstances are still arising, however.

Operation and Maintenance (O&M) Work Group - Yesterday we convened the O&M work group. This group will be providing advice regarding activities that will be needed after EPA

finishes the cleanup work. Examples of remaining activities include warning renters about asbestos and managing the asbestos cell at the landfill. Members of this group were chosen because of their continuing responsibility, and include representatives of city, county, state, TAG, and W.R. Grace. W.R. Grace is included because of its continuing funding responsibility. A TAG representative also attended. Meetings of this group will be open to the public, but we hope EPA will focus its meetings on specific issues as opposed to a public forum for general cleanup questions.

CAG Member Question - Is the state an active member?

Answer - Yes, DEQ's Craig French is a member. Traditionally states take an active interest in O&M topics because of their funding responsibility. The states try to get EPA to cleanup as much as possible so remaining issues which the state must fund are minimized.

Audience Member Comment - You mentioned the state's funding responsibility for O&M. Given the state's budget situation, it will have to position itself so that it can come up with the money.

Response - The state is required to pay 10% of EPA's long term remediation costs which it can meet by assuming O&M costs. We will seek creative funding for O&M to leverage resources.

CAG Member Question - Now that the Stimson property is in public ownership, what is happening with its cleanup?

Answer - EPA has conducted an investigation and screening study of the Stimson property. The interim results have been published. The results are interim because not all of the soil samples have yet been analyzed. We have learned of two areas of significant contamination. The large, central maintenance building is leaking vermiculite insulation and dust levels are high inside it. A test run to cleanup a portion of this building went well. We are aware that the city has a potential tenant for a portion of the building which does not have the insulation problem. We plan to address this portion this summer at the earliest. The other area of contamination is the old nursery site which will require a large amount of dirt removal. This area is isolated and is not a cleanup priority now. We will develop a cleanup plan for this area and release it for public comment.

CAG Member Question - You stated that W.R. Grace is a member of the O&M work group because of it is a potential source for funding. Would its contribution be voluntary?

Answer - Not necessarily. We have not yet crossed the bridge of W.R. Grace's continuing funding obligation which may include the mine and O&M. It may not have the ability to pay, however, because of its bankruptcy. We hope to have the company's cooperation when and if it emerges from bankruptcy. EPA and W.R. Grace have been able to work well together in the cleanup of the flyway property. EPA retains oversight authority when W.R. Grace conducts cleanup activities.

CAG Member Question - Would the bankruptcy court have to approve W.R. Grace expenditures on O&M?

Answer - Yes. The best scenario is for W.R. Grace to emerge from bankruptcy.

CAG Member Question - If W.R. Grace conducts a cleanup, does it have to pay Davis-Bacon wage scales?

Answer - No.

CAG Member Question - But any W.R. Grace cleanup would be subject to EPA oversight?

Answer - Yes. We would work out a binding agreement that would provide for a cleanup work plan, a sampling plan, and health and safety provisions. EPA would retain the authority to decide when the cleanup would be finished, and W.R. Grace would pay for both the cleanup and EPA's oversight.

Residential Cleanup Video - Wendy Thomi reported that the video of the cleanup process has been completed and is available at the Information Center in both video and DVD formats.

Cleanup Fact Sheet - EPA is preparing a fact sheet with an annual update regarding the cleanups. Information about the number of homes cleaned and cleanup costs is included. If you are not already on EPA's mailing list, please let us know as we will be mailing the fact sheet soon.

TAG Report

George Keck and Gordon Sullivan reported on behalf of the Libby Technical Advisory Group (TAG). Mr. Keck addressed what the TAG is doing, how it is doing it, and where it is headed.

What TAG is Doing - TAG is reviewing technical documents related to the cleanup such as EPA's cleanup work plans and the risk assessment.

How TAG Is Doing It - TAG has a technical advisor, Gordon Sullivan, and a "tiger team" of volunteers that are reviewing the documents. TAG is meeting once a week on Tuesday evening from 7:00-9:00 p.m. at the college to review and discuss the documents. The review meetings are open to the public. Once a month, the TAG will report to the CAG. The TAG will also publish a paid column in the local newspaper to communicate its reviews and elicit community feedback for inclusion with TAG's comments to the EPA.

Where TAG is Headed - The TAG's purpose is to review technical documents, summarize them in lay terms to facilitate community understanding, take these summaries to the community as an educational endeavor, and gain a broad based response for incorporation into TAG's comments.

Risk Assessment - The TAG is examining the model currently used by EPA as well as alternative models that might be used for calculating the risk posed by various levels of asbestos. Two people from the TAG and representatives of the CARD Clinic, the state, and the county will travel to Denver to discuss the risk assessment with EPA. The TAG will report on these discussions with the public.

Mr. Sullivan stated that the TAG's number one concern is ensuring that the community's expectation of a quality cleanup is being met. The work of the TAG so far has found nothing that cannot be worked out with EPA. EPA's cleanup work plan appears to be a good one.

Audience Member Question - I am aware of a dump truck owner who worked here in Libby on the cleanup. He recently replaced his transmission, and found the old parts to be covered with vermiculite. What can be done?

Response by Gordon Sullivan - If the truck was contaminated the owner should talk with EPA.

Response by Jim Christiansen - The TAG has reviewed EPA's sampling and vehicle decontamination procedures. We believe both to be good ones. We certainly do not want contaminated trucks spreading asbestos. We are willing to discuss this situation with the truck owner.

ARD Health Conference

Gayla Benefield reported that a conference will be convened in Libby by ARD Net focused on living successfully with asbestos-related disease. The conference will be targeted at patients with asbestos-related disease (ARD), their families, people at risk for developing ARD, and anyone else interested. Nineteen local and state agencies will be present.

CARD Clinic Report

Mike Giesey reported that the resolution to EPA Administrator Leavitt in support of previously agreed to funding levels is being circulated in the community for signatures. Individuals are also being urged to write their own letters to Administrator Leavitt supporting the funding levels. The letters can be dropped off at Timberline Auto. The resolution and letters will be presented to Administrator Leavitt during his pending visit to Libby. The CARD Clinic Board of Directors is also preparing a letter that will be sent to the Administrator suggesting activities during his visit. The CARD Clinic recently convened a second research conference on ARD in Libby. The conference lasted a day and one-half and was attended by twelve doctors and researchers. This group volunteered to review research proposals.

CAG Member Question - The next time this group meets, could they hold a public session to provide a summary of what they are doing?

Answer by Mike Giesey - The two meetings held to date have not been open to the general public because of time constraints. We will talk with the group about holding a public session at any future meeting.

CAG Member Comment - These doctors are acting in an advisory capacity to the CARD Clinic. They are discussing the difference between asbestos disease that they are used to seeing and what is happening in Libby.

CAG Member Comment - We are waiting for a press release from Senator Baucus' office to kick off a seven to ten day public campaign for the resolution and letter writing for Administrator Leavitt's visit. We are targeting an April date for the Administrator's visit.

Response by Jim Christiansen - You should not assume that the visit will necessarily be in April. It may be sooner, and he may come at short notice, so you should begin your preparation for the visit now.

Public Comment

Audience Member Comment - Commissioner Rita Windom is organizing a bus trip to Helena to protest taking funding from improving Highway 2 and diverting it to work on Highway 93. I encourage everyone who can to participate in the bus trip.

CAG Member Question - The Highway 2 improvement will bring funding to Libby, so we should support Commissioner Windom's efforts.

Next Meeting

The next regular CAG meeting is scheduled for 7:00 to 9:00 p.m. on Thursday, March 11, 2004 in the Ponderosa Room of Libby City Hall.

Appendix 1 CAG Member & Guest Attendance List February 12, 2004

Members	Group/Organization Represented
George Keck	Technical Advisory Group (TAG)
Sandy Wagner	TAG
Rick Palagi	St. John's Lutheran Hospital
Gordon Sullivan	TAG
Clinton Maynard	Area Asbestos Research Group
Ken Hays	Senior Citizens
Wendy Thomi	EPA Community Involvement
Jim Christiansen	EPA Project Manager
LeRoy Thom	Former Grace Employee
Gayla Benefield	LCAORO/ARD Network
Gary D. Swenson	Libby Volunteer Fire Department
David F. Latham	<i>The Montanian Newspaper</i>

Guests

John Wardell	EPA
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